

**BEFORE THE COMMISSIONER, H.R. & C.E.ADMN.DEPARTMENT,  
CHENNAI-34.**

Friday the 26<sup>th</sup> day of October, Two thousand and Eighteen.

Present:Thiru.T.K.Ramachandran, I.A.S.,

Principal Secretary / Commissioner

**R.C.No.6713/2018 D2**

**Between**

Mani

...Petitioner

**And**

Manoharan

S/o.Govindaswamy gounder

No.26, V.S.Pillayar Koil Street, Polur town,

Thiruvannamalai District.

....Respondents

In the matter of Arulmighu Muneeshwaran Temple, Mottalur, Polur Town, Thiruvannamalai.

Petition filed to condone the delay of 314 days in filing the Appeal petition filed under Section 69(1) of the Tamil Nadu H.R. & C.E. Act, 1959 (Tamil Nadu Act 22 of 1959) against the order dated 23.12.2016 of the Joint Commissioner, HR&CE Admn Department, Villupuram in allowing the O.A.11/2015 filed u/s. 63(b) of the act.

**Order in D.Dis.R.C.No.6713/2018 D2 dated:26.10.2018**

The above Revision petition came up for hearing before me on 15.10.2018 in the presence of Thiru.S.Gunaseelan, counsel for the respondent. Upon hearing his arguments and having perused the connected records the matter having stood over for consideration till this day, the following order is passed:-

**ORDER**

The above appeal petition was filed u/s 69(1) of the Act against the order dated 23.12.2016 passed in O.A.11/2015 filed u/s 63(b) of the Act. There is a delay of 314 days in filing the appeal petition.

2. In the affidavit filed along with the petition to condone the delay, the petitioner has stated that he was not added as party in the O.A.11/2015 filed before the Joint Commissioner, Villupuram. He has obtained the order from the Joint Commissioner, Villupuram only on 18.12.2017. Hence there was a delay of 314 days which was neither willful nor wanton.

3. In the counter affidavit, the respondent has stated that during the hearing before the Joint Commissioner, the petitioner was present in the office of the Joint Commissioner, Villupuram. He has obtained the order from the Joint Commissioner and filed a writ petition in W.P.No.3720/2017 before the Hon'ble High Court on 02.02.2017. Further the Inspector, Polur has sent a notice to the petitioner to handover the charge to the Respondent on 31.03.2017. But he has sworn in false affidavit stating that he was not aware of the proceedings before the Joint Commissioner.

4. The above petition came up for hearing on 06.03.2018, 03.04.2018, 26.06.2018 and 03.09.2018. Both the petitioner and his counsel were called absent on all the occasions. Hence, the case was adjourned to 15.10.2018 and notice was sent to the counsel for the petitioner through RPAD on 11.09.2018. But the said notice was returned as "left". When the matter was taken up for hearing on 15.10.2018, both the petitioner and his counsel were called absent. I heard Thiru.S.Gunaseelan, counsel for the respondent and perused the relevant records.

5. In the impugned order, the office of the trusteeship of the Arulmighu Muneeshwarar Temple, Mottaloor, Polur Taluk, Thiruvannamalai District has been declared as Hereditary and the 2<sup>nd</sup> respondent has been declared as Hereditary Trustee. The petitioner has filed this appeal petition challenging the said order with a delay of 314 days. The petitioner has stated that he was not a party to the said proceedings and obtained the copy of the order only on 18.12.2017. But he has filed a Writ Petition before the Hon'ble High Court

challenging the above order on 02.02.2017 itself. Further, the Inspector, HR&CE Department, Polur has issued a notice to the petitioner to handover the charge to the respondent herein on 31.03.2017. In the said notice it was mentioned that Thiru.G.Manoharan, the respondent herein has been declared as Hereditary Trustee of the above temple by the Joint Commissioner, Villupuram vide order dated 23.12.2016 in O.A.11/2015. This appeal was filed on 02.02.2018. The petitioner has failed to explain the delay with sufficient reasons. Further the petitioner and his counsel were not appeared before this forum to explain the delay.

6. In the Judgement reported in (2009) 3 MLJ 782, the Hon'ble High Court held that:

**“When there is total lack of bonafide on the part of the petitioner while coming forward with the application, the Court is of the view that this case does not deserve liberal approach formula in matters relating to condonation of delay”**

**“It is also well settled that the question of limitation is not a merely technical consideration but based on Principles of sound Public policy as well as equity and that a victorious litigant cannot be expected to remain disgruntled indefinitely for a period to be determined at the whims and fancies of the opponent”.**

In the case on hand, the petitioner has failed to adduce any justiable reason to condone the delay.

Therefore, for the foregoing reasons stated supra, I am not convinced to condone the delay. Accordingly, the petition to condone the delay of 314 days in filing the appeal petition is hereby dismissed as devoid of merit.

/typed to dictation/

Sd./- T.K.Ramachandran  
Principal Secretary /Commissioner

/t.c.f.b.o./

Superintendent

**To**

1. The Petitioner through Thiru.A.Ashvathaman, Advocate, No.3/26, Sundereshwarar Sami Street, Mylapore, Chennai -04.
2. The Respondent through Thiru.S.Gunaseelan, Advocate, New No.313 (old No.151), 1<sup>st</sup> floor, Thambu Chetty street, Chennai -01.

**Copy to**

3. The Joint Commissioner, HR & CE Admn.Dept., Villupuram.(Along with file in O.A.11/2015 and Exhibits A1 to A24)-**By RPAD**
- 4.The Assistant Commissioner, HR & CE Admn.Dept., Thiruvannamalai.
5. Inspector, HR&CE Department, Polur.
6. Extra.